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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/652,892
Filing Date: August 29, 2003
Appellant(s): OWHADI ET AL.

Steven L. Nichols (Reg. No. 40326)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/12/2011 appealing from the Office action mailed 05/12/2011.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-20 are currently pending and stand finally rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

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(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Patent No. US 6742141 B1	Miller	05-2000
Pub. No. US 2003/0040937 A1	Gregersen et al.	04-2001
Pub. No. US 2002/0198834 A1	Kramer et al.	11-1999
6145096	Bereiter et al.	11-2000
"Signed Applets, Browsers, and File Access"	Pawlan et al.	04-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. **Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (Patent No. US 6742141 B1; hereinafter Miller) in view Gregersen et al (USPPN 20030040937 A1; hereinafter Gregersen - Note Gregersen is also available as WO 01/77887).**

As to claim 1, Miller teaches:

A method of obtaining technical support for a data-processing device (e.g., see col. 3 lines 7-11; general services for monitoring, diagnosing and solving problem at the customer's facility), comprising initiating a support session (e.g., see Fig. 19 and col. 18 lines 43-67 and col. 5 lines 21-26; initiate an automated problem escalation) during which device-specific data is conveyed from the device to a support provider system to assist the support provider in

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responding to a support query (e.g., see Fig. 19 and col. 18 lines 43-67; send state information to support center – steps 389 & 390), and polling the support provider's system with a polling application to determine whether the support provider has indicated a response to the query has been made available, on a repeated and automated basis, until a response becomes available or the support session is terminated (see Fig. 19 and col. 18 lines 43-67 and col. 5 lines 30-44; the customer site software periodically checks the status of the problem escalation), in which a response flag is added to the support provider's system when a response becomes available and in which the flag is detected by the polling application (see Fig. 19 and col. 5 lines 35-44 and col. 18 lines 58-67; if they are successful, they add a new entry to the master knowledge base that can diagnose and resolve the problem; the customer site software periodically checks the status of the problem escalation).

Miller does not teach notifying a user of the data-processing device that the response has become available.

Gregersen teaches an indication/flag is detected by the polling application which notifies a user of the data-processing device that a response is available (see [0070] and [0147], [0148]; polling the server for an indication of whether relevant information is available for the user). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the technical support using the polling application as taught by Miller to include the polling for indication of available information as taught by Gregersen to achieve the claimed invention. One would be motivated to make such a combination is to be able to receive new information/data from the server (see Gregersen [0146]).

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As to claim 2, Miller teaches wherein the polling application is obtained from the support provider (see Fig. 4 and col. 5 lines 35-44, col. 9 lines 1-19, col. 21 lines 9-14; the customer site software includes customer knowledge base 125 that is obtained from the master knowledge base 121). Gregersen also teach the polling application is obtained from the server (see [0036], [0038], [0040]).

2. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Gregersen in view Kramer et al. (US 2002/0198834 A1; hereinafter Kramer).

As to claims 3, 4, the rejection of claim 2 is incorporated. Miller and Gregersen do not expressly teach that the polling application, during the support session, is executed subsequent to each boot or start-up sequence of the device.

Kramer teaches the capability to enable a software to auto start after a reboot (see [0066]; ensure the execution of an application will be invoked as part of the system startup process). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the customer site software of Miller and Gregersen to include the feature of auto start after a reboot as taught by Kramer to achieve the claim limitations. This is because Miller's customer site software has a capability of checks the status of the problem escalation periodically (see col. 5 lines 37-44) and another capability to use the RUN Key in the registry (see col. 11 lines 35-40); having this check/polling feature executed subsequent to each start-up sequence can save the user from starting the checking process manually; thus, save the user time.

As to claim 5, the rejection of claim 3 is incorporated. Kramer further teaches in a Windows operating system. environment, a Run key located in or operatively associated with the registry of the device is used to execute the application, subsequent to each said boot or

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start-up sequence (see [0066]; RUN or RUNONCE keys of the Registry). Thus, combining Miller and Gregersen and Kramer would meet the claimed limitations for the same reason as discussed with respect to claim 3 above.

As to claim 6, the rejection of claim 5 is incorporated. Kramer teaches the capability to delete or remove the RUN keys from the registry upon the termination of the software application (see [0066], [0084]). Thus, combining Miller and Gregersen and Kramer would meet the claimed limitations for the same reason as discussed with respect to claim 3 above.

As to claim 7, the rejection of claim 6 is incorporated. Kramer teaches the application subsequently is deleted using a delete command executed in accordance with a RUN ONCE located in or operatively associated with the registry (see [0066], [0084]). Thus, combining Miller and Gregersen and Kramer would meet the claimed limitations for the same reason as discussed with respect to claim 3 above.

3. Claims 8-9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Gregersen in view of Bereiter et al (Patent No. 6145096; hereinafter Bereiter).

As to claim 8, Miller and Gregersen teach the limitations of claim 2 for the same reasons as set forth above. Miller teaches the support session is established using a Web connection (see col. 10 lines 61-67). Miller and Gregersen do not expressly teach wherein the polling application is downloaded from the support provider using an applet.

Bereiter teaches similar automatic technical support system (see Fig. 5). Bereiter teaches wherein a support session is established (e.g., step 62 or step 74 in Fig. 5) using a web connection (e.g., see Fig. 1) and wherein a polling application (e.g., the program to execute the

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steps 84 and 86 in Fig. 5) is downloaded from the support provider using an applet (e.g., col. 4 lines 45-49 and col. 8 lines 52-55).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the customer site software of Miller and Gregersen to include the feature of implementing the technical support using an applet as taught by Bereiter to achieve the claim limitations. This is because Miller's customer site software has a capability to run web browser (see Miller col. 9 line 1); having the customer site software implemented in Java applet would provide a convenient runtime environment for programs written as Java applets (see Bereiter col. 4 lines 39-44).

As to claim 9, Bereiter further teaches wherein the applet is operative to download a data harvester to gather the device-specific data (e.g., see col. 2 lines 38-45 and col. 4 lines 45-49). Therefore, combining Miller and Gregersen and Bereiter would meet the claimed limitations for the same reason as discussed with respect to claim 8 above.

As to claim 12, Bereiter further teaches wherein the polling (e.g., steps 84 and 86 in Fig. 5) is effected using hypertext transfer protocol (e.g., see col. 4 lines 45-49 and col. 8 lines 52-55). Therefore, combining Miller and Gregersen and Bereiter would meet the claimed limitations for the same reason as discussed with respect to claim 8 above.

4. Claims 10-11, 13-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Gregersen in view of Bereiter further in view of Pawlan et al (Pub article 'Signed Applets, Browsers, and File Access' April-1998, pp 1-5; hereinafter Pawlan).

As to claim 13, Miller teaches:

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A method of providing asynchronous web-based active technical support from a support provider to a user of an electronic device during a support session (e.g., see col. 3 lines 7-11; general services for monitoring, diagnosing and solving problem at the customer's facility), the method comprising receiving device-specific data to assist the support provider in responding to a support query (e.g., see Fig. 19 and col. 18 lines 43-67; send state information to support center – steps 389 & 390), and dispatching a polling application operative to poll the support provider's system to determine whether the support provider has indicated a response to the query has been made available (see Fig. 19 and col. 18 lines 43-67 and col. 5 lines 30-44; the customer site software periodically checks the status of the problem escalation) wherein the response's availability is indicated by a flag (see Fig. 19 and col. 5 lines 35-44 and col. 18 lines 58-67; if they are successful, they add a new entry to the master knowledge base that can diagnose and resolve the problem; the customer site software periodically checks the status of the problem escalation).

Miller does not teach notifying the user that the response has become available and a flag associated with the support provider's uniform resource locator.

Gregersen teaches the indication/flag is detected by the polling application which notifies a user of the data-processing device that a response is available (see [0070] and [0147], [0148]; polling the server for an indication of whether relevant information is available for the user). Gregersen teaches the indication/flag is associated with the provider's URL (see [0150]). Therefore, combining Miller and Gregersen would meet the claim limitations for the same reasons as set forth in claim 1.

Miller and Gregersen do not teach the polling application being dispatched, from or on behalf of the support provider, in response to an instruction generated using an applet.

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Bereiter teaches similar automatic technical support system (see Fig. 5). Bereiter teaches wherein a polling application (e.g., the program to execute the steps 84 and 86 in Fig. 5) is downloaded from the support provider using an applet (e.g., col. 4 lines 45-49 and col. 8 lines 52-55).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the customer site software of Miller and Gregersen to include the feature of implementing the technical support using an applet as taught by Bereiter to achieve the claim limitations. This is because Miller's customer site software has a capability to run web browser (see Miller col. 9 line 1); having the customer site software implemented in Java applet would provide a convenient runtime environment for programs written as Java applets (see Bereiter col. 4 lines 39-44).

While Bereiter teaches security must be considered for data gathering (e.g., see col. 8 lines 23-34), Miller and Gregersen and Bereiter do not expressly disclose a trusted applet.

Pawlan teaches for an applet to access local system resources outside the directory from which the applet is launched, the applet must be granted explicit access to those resource (e.g., see Pawlan Para 5 title 'Local File Access').

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of a signed applet as taught by Pawlan to the method of automated technical support in a computer network as taught by Miller and Gregersen and Bereiter to create a web-based active technical support that allows a trusted applet to gather and access data from a client machine. The motivation to combine Pawlan's teaching with Miller and Gregersen and Bereiter's teaching is to allow system data to be gathered and sent to the technical supporter automatically and still protect local files or system against un-trusted sources.

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As to claim 14, Miller teaches:

A server-side technical support source comprising a web server to participate in asynchronous messaging with a client-side device (e.g., see Fig. 17), the support source being operative to supply, to the device, a polling application whereby repeated polling of the support source for a response to a support query is effected (see Fig. 4 and col. 5 lines 35-44, col. 9 lines 1-19, col. 21 lines 9-14; the customer site software includes customer knowledge base 125 that is obtained from the master knowledge base 121); wherein the response's availability is indicated by a flag (see Fig. 19 and col. 5 lines 35-44 and col. 18 lines 58-67; if they are successful, they add a new entry to the master knowledge base that can diagnose and resolve the problem; the customer site software periodically checks the status of the problem escalation).

Miller does not teach a flag associated with the support provider.

Gregersen teaches the indication/flag is detected by the polling application which notifies a user of the data-processing device that a response is available (see [0070] and [0147], [0148]; polling the server for an indication of whether relevant information is available for the user).

Gregersen teaches the indication/flag is associated with the provider's URL (see [0150]).

Therefore, combining Miller and Gregersen would meet the claim limitations for the same reasons as set forth in claim 1.

Miller and Gregersen do not expressly teach the polling application being supplied to the device using an applet.

Bereiter teaches similar automatic technical support system (see Fig. 5). Bereiter teaches wherein a polling application (e.g., the program to execute the steps 84 and 86 in Fig.

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5) is downloaded from the support provider using an applet (e.g., col. 4 lines 45-49 and col. 8 lines 52-55).

Therefore, combining Miller and Gregersen and Bereiter would meet the claim limitations for the same reasons as set forth in claim 13 above.

While Bereiter teaches security must be considered for data gathering (e.g., see col. 8 lines 23-34), Miller and Gregersen and Bereiter do not expressly disclose a trusted applet.

However, this deficiency is taught by Pawlan as discussed in the rejection of claim 13 and is incorporated herein.

As to claims 15 and 18, claims 15 and 18 are directed to a software element stored on a memory of a data-processing device and a method for implementing the method steps as claimed in claim 13; therefore, is rejected under similar rationale. Including Miller teaches the polling element whereby a support provider may be polled on a repeated and automated basis (see Fig. 19 and col. 18 lines 43-67 and col. 5 lines 30-44; the customer site software periodically checks the status of the problem escalation)

As to claim 10, the rejection of claim 8 is incorporated. Pawlan teaches for an applet to access local system resources outside the directory from which the applet is launched, the applet must be granted explicit access to those resource (e.g., see Pawlan Para 5 title 'Local File Access'). Thus, combining Miller and Gregersen, Bereiter and Pawlan would meet the claimed limitations for the same reasons as discussed with claim 13 above.

As to claim 11, the rejection of claim 11 is incorporated. Pawlan teaches the support provider conveys to the user a trust request, agreement to the request allowing execution of the applet (e.g., see Pawlan Para 5 title 'Local File Access'). Thus, combining Miller and

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Gregersen, Bereiter and Pawlan would meet the claimed limitations for the same reasons as discussed with claim 10 above.

As to claims 16, 20, claims 16 and 20 are in the same context as claims 12 and 9, respectively; therefore are rejected under similar rationale.

As to claim 17, the rejection of claim 16 is incorporated. Gregersen teaches that the polling element has a footprint of no more than about 50 kilobytes (see [0040]). The motivation is to allow quick download or transmit through internet connection (see Gregersen [0040]).

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Gregersen in view of Bereiter and Pawlan as applied to claim 18 above and further in view of Kramer.

As to claim 19, claim 19 is in the same context as claim 3; therefore is rejected under similar rationale.

(10) Response to Argument

A. The Appellant argues with respect to claim 1 (Appeal Brief dated 09/12/2011 pages 11-13) that the cited references in any combination fail to teach or suggest the limitation “a response flag is added to the support provider’s system when a response becomes available and in which the flag is detected by the polling application”.

In response, the examiner respectfully disagrees. Miller teaches a system and method for providing diagnosing and solving problems to client sites (see col. 3 lines 7-11). Miller

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teaches when the customer site software detects a problem that cannot be resolved, it initiates an automated problem escalation (see col. 5 lines 21-26); the escalation process comprises the steps of collecting device-specific data of the customer device and conveyed to the support provider to assist the support provider in responding to the support escalation or support query (see col. 5 lines 30-37). Miller teaches that if the support providers (i.e., technician at the call center, see col. 5 lines 35-37) try to discover a solution for the problem is successful, they add a new entry to the master knowledge base that can diagnose and resolve the problem (see col. 5 lines 37-44). The customer site software periodically checks the status of the problem escalation, and when it discovers that a resolution is available, it initiates an update of the customer knowledge including transferring the new database entry of the resolved problem to the customer site to solve the problem (see col. 5 lines 37-44). The new entry added to the master knowledge base is interpreted to be a response flag added to the support provider's system when a response becomes available. The step of "periodically checks by the customer site software to see whether a resolution is available or not" is interpreted to be "detected by a polling application". Therefore, the examiner concludes that Miller teaches the disputed limitation of "a response flag is added to the support provider's system when a response becomes available and in which the flag is detected by the polling application".

However, as admitted by the examiner in the rejection of claim 1 that, Miller does not expressly disclose notifying a user of the data processing device that the response has become available.

This deficiency is disclosed by Gregersen. Gregersen teaches a feature of checking on the server to see whether the server has new information that is of interest to a client (see [0070], [0147]). If the server has new information, Gregersen teaches an indication is subsequently dispatched to the users/clients (see [0149]). With respect to claim 1, Gregersen

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teaches notifying a user of a data processing device that a response (i.e., requested information) has become available (see [0029], [0130]). Accordingly, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the system of Miller to include the feature of informing the user of the available information as taught by Gregersen to achieve the claim limitations. One would be motivated to make such a combination is to be able to know when the interested information is available to actively download the available information from the server (see Gregersen [0082] and [0130]).

The Appellant further remarks that in rejecting claim 13, the Office has conceded that Miller does not teach or suggest “a response flag is added to the support provider’s system” (see the Brief page 12, second paragraph). In response, the examiner directs the Appellant to page 7 of the Office action mailed on 5/12/11, where it states in part “Miller does not teach notifying the user that the response flag has become available and a flag associated with the support provider’s uniform resource locator”. Nowhere does it state that Miller does not teach “a response flag is added to the support provider’s system”. For at least this reason, the Appellant’s remark regarding the conflict statement is factually incorrect.

B. The Appellants argue with respect to claim 13 (Appeal Brief dated 09/12/2011 pages 14-15) that the cited references in any combination fail to teach or suggest the limitation “a flag associated with the support provider’s uniform resource locator”.

In response, the examiner respectfully disagrees. As set forth in the rejection of claim 13, the examiner relied on Gregersen reference for teaching this limitation. As mentioned above, Gregersen teaches the feature of checking on the server to see whether the server has new information that is of interest to a client (see [0070], [0147]). If the server has new information, Gregersen teaches an indication is subsequently dispatched to the users/clients

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(see [0149]). With respect to claim 13, Gregersen teaches said indication comprises a link or a URL to the generated and/or updated page which can be found on the server (see [0074], [0082] and [0150]). The user of the client device can use this URL to download the available information (see [0151]). Gregersen is interpreted to suggest associating a flag (i.e., indication) with the server's URL (so that the user can subsequently download the requested information).

Accordingly, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the system of Miller to include the feature of associating a response flag with a server's URL as taught by Gregersen to allow the user to follow the URL to download the requested information (see Gregersen [0151]).

C. The Appellants argue with respect to claims 14, 15, 18 (Appeal Brief dated 09/12/2011 pages 16-20) that the cited references in any combination fail to teach or suggest the limitation "a flag associated with the support provider's uniform resource locator".

Since the Appellants similarly argue the same limitation as presented in claim 13, in response, the examiner incorporates the response B as presented above with respect to claim 13.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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